IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE L.NARASIMHA REDDY**

**WRIT PETITION NO : 2192 of 2005**

Between:

M. Vijaya Lakshmi, W/o. Eswar Reddy,
Athiralladinne Village, Pedda Pappur Mandal,

Anantapur District.

**..... PETITIONER**

AND

1 The Joint Collector, Anantapur, Anantapur District.
2 The Revenue Divisional Officer, Anantapur,
3 The Mandal Revenue Officer,

Pedda Pappur Mandal, Anantapur District.

**.....RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order or direction more particularly one in the nature of Writ of Certiorari calling for records in and relating tot he proceedings of 2nd respondent made in D.Dis.No.D1/CS/773/2004, dated
24-1-2005 and quash the same after holding the proceedings are arbitrary, illegal and violative of principles of natural justice and pass such other order or orders as this Hon'ble Court deems fit and proper in the circumstances of the case.

**Counsel for the Petitioner:MR.K.SITA RAM**

**Counsel for the Respondents: GP FOR CIVIL SUPPLIES**

**The Court at the admission stage made the following :**

**ORDER:**

The petitioner was appointed as a dealer for the fair price shop of Athiralladinne Village, Anantapur District. She was issued a show cause notice, dated 10.07.2004, by the 2nd respondent. Three charges were framed and the petitioner was required to submit her explanation as to why the authorization shall not be suspended on account of the same. The petitioner submitted her explanation on 21.07.2004. The authorization was suspended pending enquiry on 02.08.2004. Aggrieved thereby, she preferred an appeal. Complaining that no interim orders have been passed therein, she filed W.P.No.14030 of 2004 before this Court. On 10.08.2004, the writ petition was disposed of, directing that the petitioner shall continue as fair price shop dealer, till the disposal of the appeal by the 1st respondent. The appeal, in turn, is said to have been disposed of on 16.11.2004, directing the 2nd respondent to conclude the proceedings in pursuance of the show cause notice. On a consideration of the explanation submitted by the petitioner and the report received from the departmental officials, the 2nd respondent passed an order, dated 24.01.2005, cancelling the authorization of the petitioner.

The petitioner filed an appeal before the 1st respondent aggrieved by the order of cancellation. She also filed an application for interim orders. Her grievance is that no orders have been passed therein.

Heard learned counsel for the petitioner, learned Government Pleader for Civil Supplies and Mr.K.Sreenivas, learned counsel appeared for some of the cardholders who are said to be affected parties.

Basically, it is not permissible to grant any interim orders in the appeals preferred against the orders cancelling the authorization of fair price shop dealers. The reason is that the truth or otherwise of the allegations, on the basis of which the authorisaiton is cancelled, needs to be decided only at the time of hearing of the appeal. However, there are certain exceptions to this general practice. If the order of cancellation is passed without issuing any notice or if it suffers from any basic infirmity, the appellate authority can certainly consider the feasibility of granting interim orders.

In the instant case, *prima facie*, it is evident that the show cause notice issued to the petitioner was the one proposing suspension of the authorization, whereas the 2nd respondent cancelled the authorization on the strength of such notice. On the face of

it, such a course of action is impermissible. Further, though only three allegations were indicated in the show cause notice, the impugned order discloses that six more charges or allegations as to irregularity were considered by the 2nd respondent. In that view of the matter, there appears to be a basic infirmity in the order of cancellation.

Therefore, the writ petition is disposed of, directing that the order of cancellation shall remain stayed, pending disposal of the appeal by the 1st respondent, and the petitioner shall be entitled to function as fair price shop dealer. The appellate authority shall expedite the hearing of the appeal. There shall be no order as to costs.

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15.02.2005

Note: Issue C.C. by 18.02.2005

L.R. copy to be marked.

(B/o)

**Jsu**

To

(One fair copy to the Hon'ble Mr Justice L.Narasimha Reddy (for his lorship's kind perusal)

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